IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA BUTTE DIVISION



MELVIN RICHARD MULKEY,

Petitioner.

CV 17-93-BU-DLC-JCL

VS.

ORDER

STATE OF MONTANA,

Respondent.

United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations on January 8, 2018, recommending Petitioner Melvin Richard Mulkey's habeas petition be dismissed as unexhausted. (Doc. 4 at 5.) Petitioner failed to timely object to the Findings and Recommendations and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

After reviewing for clear error and finding none,

IT IS ORDERED that Judge Lynch's Order and Findings and Recommendations (Doc. 4) are ADOPTED IN FULL.

- 1. The Petition (Doc. 1) is DISMISSED as unexhausted.
- 2. The Clerk of Court is directed to enter by separate document a judgment in favor of Respondent and against Petitioner.
 - 3. A certificate of appealability is DENIED.

DATED this 15t day of March, 2018.

Dana L. Christensen, Chief Judge United States District Court